

REMARKS

Applicants respectfully request reconsideration of the above-identified application in lieu of the amendments and remarks set forth herein. Clarifying amendments have been made to Claim 20. Therefore, Claims 1, 4-6, 10, and 20-26 remain pending in the present application.

Claims 1, 5, 6, 21-23, and 26 were rejected in a June 5, 2009, Office Action (hereinafter "Office Action") under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,030,349, issued to Wilson et al. ("Wilson"), in view of U.S. Patent No. 6,533,772, issued to Sherts et al. ("Sherts"), and in further view of U.S. Patent No. 4,057,186, issued to Hedger ("Hedger"). Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of Sherts and Hedger, and in further view of U.S. Patent No. 4,858,810, issued to Intlekofer et al. ("Intlekofer"). Claims 10 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of Sherts. Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,137,517, issued to Loney et al. ("Loney"), in view of Sherts and further in view of Intlekofer. Claim 25 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Loney in view of Sherts and Intlekofer, and further in view of Wilson. As will be discussed in further detail below, applicants respectfully assert that the present application is in condition for allowance.

Claim Rejections Under 35 U.S.C. § 103

Claims 1, 5, 6, 21-23, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson, in view of Sherts and in further view of Hedger. Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of Sherts and Hedger, and in further view of Intlekofer. Claims 10 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of Sherts. Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Loney in view of Sherts and further in view of

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Intlekofer. Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Loney in view of Sherts and Intlekofer, and further in view of Wilson. Applicants respectfully traverse the rejection of these claims.

As a general rule, a conclusion of obviousness requires a determination as to whether there was an *apparent reason* to combine the known elements in the fashion claimed by the patent at issue. *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 82 U.S.P.Q.2d 1385 (2007). Further, under Section 103, a *prima facie* case of obviousness is established only if the cited references, alone or in combination, teach each of the limitations of the recited claims. *In re Bell*, 991 F.2d 781 (Fed. Cir. 1993). As will be discussed in detail below, the claims of the present application recite combinations of features neither disclosed nor rendered obvious by the prior art.

Independent Claim 1

The Office Action contends that Wilson discloses each and every element of Claim 1 except for a tongue that is suspended between the opposing side surfaces and a slider that operates with longitudinal movement. To arrive at the combination of features recited in Claim 1, the Office Action looks to Sherts, which purportedly teaches an analogous device with a tongue 104 suspended at least at some time between opposing side surfaces of body 100a and a slider button 106 that is longitudinally slideable within a channel to variably compress a wire between a vertically moving clamp pad 104 and the bottom of the channel. The Office Action then looks to Hedger, which purportedly discloses a device wherein a wire is compressed between the under surface of tongue-like suspended slider 16 and the upper surface of element 19. Accordingly, the Office Action contends that it would have been obvious to one of ordinary skill in the art to combine the teachings of Wilson, Sherts, and Hedger to arrive at subject matter of Claim 1. Applicants respectfully disagree.

Applicants assert there is no apparent reason to combine Wilson with Sherts and/or Hedger. Specifically, the Office Action has provided no evidence as to why one skilled in the art would modify the side-loadable channel of Wilson to include a suspended tongue, as purportedly disclosed in either Sherts or Hedger. Further, the Office Action has provided no evidence as to why one skilled in the art would modify the device of Wilson so as to employ a longitudinal slider, as purportedly disclosed in either Sherts or Hedger. Applicants assert that Wilson is specifically designed to use a vertically depressed button. To modify Wilson to employ either a suspended tongue or a longitudinal slider, applicants believe that the Office Action is using impermissible hindsight reasoning, and but for the knowledge gained by reviewing applicants' specification, the Office Action would not have combined the references in the manner set forth in the Office Action.

Applicants further assert that Wilson, Sherts, and Hedger disclose three distinctly different approaches to grasping a wire. Wilson employs a button that moves perpendicular to a side-loadable channel in order to bind the wire. Wilson's approach is drastically different in operation than both Sherts and Hedger, which fail to disclose the ability to side load a wire. In particular, Sherts purportedly employs a clamp pad that moves into engagement with the wire via longitudinal movement of a slider. See Figs. 12c-12c. Hedger purportedly employs a slider that includes a cantilevered tongue that moves via depression of a finger to clamp a wire between the tongue and a portion of the slider. See Figs. 4 and 6. As such, applicants assert that Wilson can not be so easily modified as suggested by the Office Action so as to be able to employ a suspended tongue and a longitudinal slider in the manner recited in Claim 1. In fact, combining Wilson, Sherts, and Hedger, as suggested by the Office Action, would require a substantial reconstruction and redesign of the elements shown in Wilson as well as a change in the basic principle under which Wilson was designed to operate. According to MPEP 2143.01, if the

proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. Therefore, applicants respectfully request withdrawal of the rejection to Claim 1. Further, applicants respectfully request withdrawal of the pending rejections to Claims 5-6, 21-23, and 26, which depend from allowable Claim 1.

Even assuming, *arguendo*, that it is obvious to combine the teachings of Wilson, Sherts, and Hedger, which applicants specifically deny, applicants respectfully submit that the proposed combination of Wilson, Sherts, and Hedger fails to disclose or render obvious each and every element of Claim 1. Specifically, Claim 1 recites an open ended channel that extends along an entire length of the body portion for allowing the wire to be side-loaded into the channel. Claim 1 also recites a slider that is longitudinally slideable within the open ended channel of the body portion. Contrastingly, Wilson, Sherts, and Hedger all fail to teach such recited elements of Claim 1.

In particular, Wilson appears to disclose an open ended channel 34 that extends along an entire length of the body 16 for allowing the wire to be side-loaded into the channel 34. See Figs. 2-4. However, the button 20 (characterized as the slider in paragraph 5 of the Office Action) does not slide longitudinally within the channel 34, as recited in Claim 1. Instead, the button 20 moves within a separate inner cavity 36, perpendicular to the longitudinally extending channel 34. Again, see Figs. 2-4.

Both Sherts and Hedger fail to remedy the deficiencies of Wilson. In paragraph 6, the Office Action contends that Sherts discloses a slider button 106 that is longitudinally slidable within the channel of the body 100a. Applicants respectfully disagree with the Office Action's contentions. Instead of being side-loaded, Sherts discloses a guide wire that is routed through a central longitudinal passage or bore 100b. Further, the slide button 106 does not slide

longitudinally within the bore 100b, as recited in Claim 1. Instead, the slide button 106 slides within a slot (not labeled in Sherts) positioned laterally outwardly of the bore 100b. See Figs. 12a-12c, and col. 10, lines 4-17.

Similarly, Hedger fails to disclose a side-loading guide wire. Instead, Hedger discloses a wire from a reel 21 carried at the end of the body 10 being threaded through a longitudinal bore 15. See Figs. 4 and 6. Further, Hedger discloses a slider 16 that is movable within a slot 14. However, the slot 14 does not allow for side-loading nor extends along the entire length of the body 10.

It is clear from the foregoing that Wilson, Sherts, and Hedger fail to disclose or render obvious each and every element of amended Claim 1. Therefore, applicants assert that a *prima facie* case of obviousness has not been established. Thus, applicants respectfully request withdrawal of the rejection to Claim 1. Further, applicants respectfully request withdrawal of the pending rejections to Claims 5-6, 21-23, and 26, which depend from allowable Claim 1.

Independent Claim 10

Independent Claim 10, from which Claim 24 depends, is directed to a wire torquing device. The wire torquing device includes a body, an open ended channel extending along the entire length of the body into which a wire can be laterally fitted, a projection that projects into the open ended channel and is suspended above the open ended channel's bottom surface, and a slider that remains in the open ended channel as the wire is laterally fitted along the length of the open ended channel and is movable longitudinally therein. The slider includes an open ended channel configured for laterally receiving the wire and being substantially aligned with the open ended channel of the body.

For at least the reasons that were discussed above with regard to Claim 1, there is no apparent reason to combine Wilson and Sherts as proposed by the Office Action. Further, for at

least the reasons that were discussed above with regard to Claim 1, the proposed combination of Wilson and Sherts fails to teach each and every element of Claim 10. Therefore, applicants assert that a *prima facie* case of obviousness has not been established. Thus, applicants respectfully request withdrawal of the rejection to Claim 10. Further, applicants respectfully request withdrawal of the pending rejection to Claim 24, which depends from allowable Claim 10.

Independent Claim 20

The Office Action contends that Loney discloses each and every element of Claim 20 except for the channel including a fixed wedge positioned on one of the side walls of the channel and a slider having an engagement surface facing the wedge and the slider longitudinally movable towards the wedge to pinch the wire against the wedge. The Office Action looks to Sherts, which purportedly discloses a fixed (in the horizontal direction only) clamp pad 104 on the side wall of the channel 100(b) but fails to disclose that the clamp pad 104 is wedge shaped. The Office Action then looks to Intlekofer, which purportedly discloses a wedge 24 used to effectively pinch a wire against the bottom of an inclined bottom surface 34 of the body member 10. Accordingly, the Office Action contends that it would have been obvious to one of ordinary skill in the art to modify the device of Loney to include the fixed clamp pad of Sherts, and to further modify the fixed clamp pad of Sherts to be wedge shaped as disclosed by Intlekofer to more effectively pinch the wire against the bottom of the channel.

Amended Claim 20 recites an open U-shaped channel that includes a pair of side walls, a bottom surface and a wedge having an angled engagement surface fixedly positioned on one of the side walls of the U-shaped channel. The Office Action admits that Loney fails to disclose a channel having a fixed wedge positioned on one of the side walls of the channel. Sherts and Intlekofer fail to remedy the deficiencies of Loney. Specifically, the Office Action in

paragraph 21 contends that Sherts discloses a clamp pad 104 fixed in the horizontal direction. However, Claim 20 recites that the wedge is fixedly positioned on one of the sidewalls. Since the clamp pad 104 is allowed to move vertically, Sherts fails to disclose a wedge that is fixedly positioned on one of the side walls. See Figs. 12b and 12c. The Office Action in paragraph 21 further contends that the clamp pad 104 is positioned on a side wall of the channel. Applicants respectfully disagree with the Office Action contentions. In particular, nowhere in Sherts does it describe or depict that the clamp pad 104 is "positioned on one of the side walls." Similar to Sherts, Intlekofer fails to disclose a wedge fixedly positioned on one of the side walls. Instead, the wedge shaped element relied upon by the Office Action is the bottom surface of a movable thumb piece. See Figs. 2 and 3 of Intlekofer. Thus, applicants assert that the combination of Loney, Sherts, and Intlekofer fails to disclose or render obvious each and every element of Claim 20.

Applicants further assert there is no apparent reason to combine Loney with Sherts or Loney and Sherts with Intlekofer. Specifically, one of ordinary skill in the art would not modify the channel of Loney to include the movable clamp pad of Sherts since the device of Loney already provides for sufficient clamping of the wire between the engagement surface 48 of the sliding member 16 and the bottom surface 38 of the slot 12. Additionally, one of ordinary skill in the art would not modify the clamp pad 104 to have a wedge shape since the ramp surfaces 52, 54 of Loney function to move the engagement surface 48 laterally downwardly with respect to the bottom surface 38 as well as maintaining the engagement surface 48 substantially horizontal (and parallel with the bottom surface 38) to provide the largest clamping surface against the wire. Further, there is no teaching that suggests to one of ordinary skill in the art to specifically modify the clamp pad 104 so that the wedge shape faces the slider. To the contrary, Intlekofer, which purportedly supplies the teaching of a wedge shape, would lead one skilled in the art to form the

bottom surface of the clamp pad 104 as a wedge, and thus, such a wedge surface would not be facing the engagement surface of the slider, as recited in Claim 20. Therefore, applicants assert that to combine the references in the manner set forth in the Office Action can only be the result of hindsight reasoning.

For at least the reasons described above, applicants respectfully assert there is no apparent reason to combine Loney, Sherts, and Intlekofer as proposed by the Office Action. Moreover, applicants respectfully assert that the proposed combination of Loney, Sherts, and Intlekofer fails to disclose each and every element recited in Claim 20. Therefore, applicants submit that a *prima facie* case of obviousness has not been established. Thus, applicants respectfully request the pending rejection of Claim 20 under 35 U.S.C. § 103(a) be withdrawn.

Dependent Claims 4 and 25

Dependent Claims 4 and 25 depend from Claims 1 and 20, respectively, and thus, contain all of the elements of Claims 1 and 20. Therefore, for at least the same reasons as discussed above with regard to Claims 1 and 20, there is no apparent reason to combine Wilson, Sherts and Hedger, and Loney, Sherts, and Intlekofer, respectively. Further, for at least the same reasons as discussed above with regard to Claim 1, Wilson, Sherts and Hedger fail to teach each and every element of Claim 4. Intlekofer fails to remedy the deficiencies of Wilson, Sherts and Hedger regarding Claim 4. Similarly, for at least the same reasons as discussed above with regard to Claim 20, Loney, Sherts, and Intlekofer fail to teach each and every element of Claim 25. Wilson fails to remedy the deficiencies of Loney, Sherts, and Intlekofer regarding Claim 25. Accordingly, applicants respectfully request withdrawal of the pending rejections under 35 U.S.C. § 103(a) with regard to Claims 4 and 25, which depend from allowable Claims 1 and 20, respectively.

New Claim 27

New Claim 27, which depends from Claim 1, has been added to particularly point out and distinctly claim a novel aspect of the present invention. Applicants respectfully assert that the newly submitted claim recite combinations of features neither taught nor suggested by the prior art. Accordingly, applicants respectfully submit that new Claim 27 is in condition for allowance.

CONCLUSION

In light of the foregoing amendments and remarks, applicants assert that the claims of the present application recite combinations of features not disclosed or rendered by obvious prior art. Therefore, applicants respectfully request early and favorable action and the allowance of all pending claims. If any further questions remain, the Examiner is invited to telephone applicants' attorney at the number listed below.

Respectfully submitted,

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